IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Special Appeal No. 03/2005

1- State of Uttaranchal through Chief Secretary,
Uttaranchal Shasan, Dehradun.

2- Principal Secretary, Training and Employment Department,
Uttaranchal Government, Dehradun.

3- Commissioner, Kumaon Division,
Nainital … Respondents/Appellants.

Versus

1- Nagesh Gupta S/o S.P. Gupta
R/o Devkotir, Tapovan Colony,
Chandausi,
District Moradabad.

2- State of U.P. through Chief Secretary,
U.P. Shasan, Lucknow.

3- Kumaon Mandal Vikas Nigam Ltd.
District Nainital.

4- M/s Kumaon Television Ltd. Bhimtal,
Nainital, through its receiver at Kumaon Mandal
Vikas Nigam Ltd. Oak Park, Nainital
District Nainital Petitioner/Respondents.

AND

Special Appeal No. 27/2005

1- State of Uttaranchal Principal Secretary
Training and Employment Department,
Uttaranchal Government, Dehradun.

2- Director, Training and Employment,
Govt. of Uttaranchal … Respondents/Appellants.

Versus

1- Dinesh Lal Patua S/o G.O. Patua C/o Ajit Kumar
Saxena R/o Telephone Exchange, Kichha, Post Kichha,
District Udham Singh Nagar.

2- Ghanshyam S/o Ram Samujh R/o Civil Hospital,
Post Tanakpur, District U.S. Nagar.

3- Ishwar Chand S/o Chandrabhan Chauhan
R/oGhasiyara Mandi, Post Tanakpur,
District U.S. Nagar.

4- Kamal Singh S/o Moti Lal
R/o Sharda Power House, Lohia Head Post Tanakpur,
District U.S. Nagar.

5- Bhagwan Chandra Pant S/o Girish Chandra Pant,
R/o House No. 21 Vasant Vihar Chhoti Mukhani,
Post Haldwani District Nainital.

6- Prakash Chandra Joshi S/o B.D. Joshi,
R/o Gayatri Nagar, Phase-II, Gas Godam Road,
KusumKheda, Haldwani District Nainital.

7- Bipin Chandra Kala S/o Patiram Kala R/o 22, Old
Nehru Colony, Post Dharampur,
District Dehradun.

8- State of U.P. through Principal Secretary, U.P.
Shasan, Lucknow.

9- Teletronix Limited, Industrict Estate, Post
Bhimtal, Nainital.

10- Kumaon Television Ltd. Industrial Estate,
Bhimtal Nainital,.

11- Kumaon Mandal Vikas Nigam Ltd.
Post Bhital, Nainital C/o Managing
Director, Kumaon Mandal Vikas Nigam Ltd.
And director Incharge, Teletronix Ltd. And Kumaon
Television Ltd. Post Bhimtal,
District Nainital ..Petitioners/respondents.

Sri K.P. Upadhyaya, learned S.C. for the appellants.
Sri I.P. Gairola, Learned counsel for the respondents.

Coram: Hon'ble P.C.Verma,J.
Hon'ble B.C. Kandpal, J.

Dated: 07-06-2006

Both these special appeals arise out of the common judgment dated 8-4-2004 of learned single Judge of this Court rendered in writ petition No. 1318 of 2003 (S/S) Dinesh Lal Patua and others versus State of U.P. and others and writ petition No. 1528/2003(S/S) Nagesh Gupta and others Vs. State of Uttaranchal

and others, therefore, both the appeals are being decided by this common judgment. By the impugned judgment the learned Single Judge allowed the petitions and respondents were directed to consider the petitioners by providing them suitable employment in various department of Kumaon Division.

2- Brief facts of the case are that petitioners who are respondents in the present appeals were employees of Teletronix Limited Bhimtal. The Company was wind up on 31-3-1996. The Company had its own establishment and after winding up of the Company the petitioners and other 276 employees were retrenched. After the retrenchment about 205 persons were re-employed but the petitioners and some others were left out. The writ petitions bearing numbers 942/2001(S/S), 1317/2003(S/S) and 3049/2001 (S/S) were also filed and all these writ petitions were allowed by the learned Single Judge of this Court by one and common judgment and directed the State of Uttaranchal to give appointment to the petitioners of those writ petitions and the State Government has already appointed 206 retrenched employees of Teletronix Limited.

3- Similar writ petition was also filed bearing number Civil W.P. No. 1322 of 2003 (S/S) which was decided by the learned Single Judge of this Court on 26-10-2004 which was relating to re-employment and back wages. The learned Single Judge allowed that writ petition and directed for re-employment and for the back wages. The State Government filed the Special Leave Petition before the Hon'ble Supreme Court bearing number 6451/2005 and in the said S.L.P. only the direction for payment of back wages has been stayed.

4- The State of Uttaranchal filed the Special Appeals against the judgment passed by the learned Single Judge on 6.6.2005 in Writ Petition Nos. 942/2001 (S/S), 1317/2003(S/S) and 3049/2001(S/S) before this Court. The Division Bench of this Court has disposed of the special appeals directing that the compliance of the order of learned Single Judge shall be made so as to give appointment to the petitioners/respondents of those appeals. However it was directed that the parties shall abide the decision of the Apex Court in S.L.P.

No. 6451/2005 with regard to the payment of back wages. It is not in dispute that the controversy in the present special appeals is similar and identical.

5- Learned Standing Counsel appearing for the State of Uttaranchal has submitted that all the petitioners who are respondents in the present appeals have already been offered re-employment on some lower posts than of the posts they were holding in the Teletronix Company and instead of joining in compliance of the aforesaid order the petitioners who are respondents in these appeals have challenged that order. As the matter is subjudice, we are not expressing any opinion with regard to the controversy involved in that writ petition. The issue in the present special appeals is squarely covered by the Division Bench judgment dated 2-9-2005 rendered in Special Appeal No. 56/2005 and Special Appeal No. 57/2005. We are not convinced to take different view than that taken in aforesaid Special Appeals.

6- Both the special appeals are accordingly dismissed. No order as to costs.

(B.C. Kandpal, J.) **(P.C. Verma, J)**

ISB